

Navy Hotline Investigative Report
As of 16 September 2009

1. Investigator and Identifying Information and Location of Working Papers

a. Investigator and Identifying Information

(b)(6), (b)(7)c

b. Location of working papers.

(1) Naval Postgraduate School, Command Evaluation Office, 1 University Circle, Monterey CA 93943

2. Background and Summary

a. Hotline Control #s and Origin of Complaint

NIGHTS #200900833(A) and NPS FY2009-05. Complainant first provided complaint with allegations on 5 May 2009. It was tasked to Command Evaluation on 11 May 2009.

b. Summary of Complaint. On May 11, 2009, the Naval Postgraduate School (NPS) Office of the Inspector General (IG) received a complaint alleging that B6, B7C of NPS improperly used indirect funds of approximately \$40,000 to pay for the individual invitational travel orders (ITO) for three Foreign National students from the University of Wyoming (U of WYO).

My review of the complaint and other documents determined the allegations addressed in this report are appropriate for investigation.

c. Additional Information. This allegation led to emerging allegations of misuse of government property, security violations, misuse of government education, abuse of authority/position, ethics violations, travel fraud, misuse of official time/position, and reprisal against civilian government employee.

d. Summary of outcome of Investigation. I investigated five allegations, all against B6, B7C and four are substantiated. Based on the evidence, I concluded B6, B7C did misuse government funds, did misuse travel funds, did violate security instructions, and did misuse government property. I am forwarding the investigation recommending the chain of command take appropriate action to hold B6, B7C accountable while in the position of Dean of the (b)(6), (b)(7)c. In regards to the fifth

allegation, I concluded the allegation is not substantiated since there is no clear policy in force for informally auditing courses at the Naval Postgraduate School.

3. First allegation. That NPS employee (B6, B7C) (B6, B7C) (b)(6), (b)(7)c (b)(6), (b)(7)c, improperly used indirect funds to pay for the individual invitational travel orders (ITO) for three Foreign National students from the University of Wyoming (U of WYO). Based upon the evidence, the investigation concluded that (B6, B7C) improperly used government funds in violation of the OMB A-21, Sponsored Program Policy/Guidance Memo No. SPPGM-06-19 (2006), and NPS Instruction 7130.1A (1996) **Substantiated.**

a. Facts

(1) Witness #2 stated that there are scarce indirect dollars and they should not be diverted to outside the needs of NPS such as what the (b)(6), (b)(7)c has done with the Foreign National students from U of WYO.

(2) Witness #3 stated that he/she was bypassed, as was the administrative assistant when they advised (B6, B7C) (B6, B7C) replied to witness #3 that he wanted an interim account set up with the funding that was to be received. Again, the witness #3 advised that this could not be done because the Research Sponsor explicitly stated in their letter that no monies could be spent on this account prior to its legal release to NPS. (B6, B7C) again replied to witness #3, "Use my indirect account" According to witness #3 the use of indirect funding for the ITO Foreign National students was not within the regulation and stated so to (B6, B7C)

(3) The funds in the (b)(6), (b)(7)c account can only be used to support labor, bin proposals, cell phones, and electronics for data crunching.

(4) Witness #8 stated that he does not directly tell any (b)(6), (b)(7)c how to use any of their funding which includes the use of indirect funds. Witness #8 further stated that indirect fund use is discretionary and no non-allowable costs should occur when asked what is done when there is improper use of the indirect funds. Witness #8 also stated that the instruction for indirect funding use was written by (b)(6), (b)(7)c The use of indirect funds is monitored by the SPFA and the AO according to Witness #8.

(5) Witness #14 stated that U.S. Army Funding Budget Page came in around February 2009. This was the first time that (B6, B7C) asked about the U. S. Army funding and grant funding mainly which is for NPS Ph.D. students, travel, and labor. Prior to this time, no attempts to get grant funding were made. Witness #14 never spoke with U.S. Army Grant Sponsor. The ITO Foreign National

students never mentioned the U.S. Army grant that had funded their research at U of WYO, and was to fund their same current research.

(6) Witness #14 stated that his impression was that [B6, B7C] was new to the Federal Government and maybe should have asked more questions but did not when it came to U.S. Navy policies and procedures.

(7) Witness #7 stated that the Foreign National students from U of WYO are graduate assistants employed there part time. Their research is funded by U.S. Army and U.S. Navy Office of Naval Research. The Foreign National students receive partial payment from U of WYO and they also receive health insurance. They have no authorization from U of WYO to work at another site and they can only be paid by U of WYO.

(8) Witness #16 thinks there may have been misappropriation of U.S. government funds in regards to the ITO Foreign National students from U of WYO. Witness #16 stated that all the researchers he knows collaborate with other researchers not Ph.D. candidates/students. Witness #16 stated that [B6, B7C] was formerly a (b)(6), (b)(7)c [REDACTED] and should have a clear understanding of U.S. Navy policies and procedures.

(9) Witness #1's opinion is that the dissertation research that the two ITO Foreign National students from U of WYO were writing, has nothing related to the U.S. Navy needs or the needs of NPS. Witness #1's impression of the research is that it was more about esoteric fluid dynamics.

(10) The U.S. Army Research Office stated that due to [B6, B7C] change of affiliation the same research proposal with some modifications on the budget items had to be resubmitted from NPS for the continuation of his research work pursuant to government accounting and contracting regulations. They also state that the proposal is for Basic Research when in fact NPS is mostly an Applied Research University with little basic research. The U.S. Army Research Office stated that this is high-risk research with potential high return and funded under 6.1 basic research.

(11) The NPS mission is applied research and it appears that this project should have stayed with U of WYO.

b. Analysis/Discussion/Conclusion

(1) The purported purpose of these individuals coming to NPS was to support sponsored research. This argument is deficient in two respects. First, the sponsored research funding in question was not authorized for use until February 13, 2009. The Foreign National students began their travel and per diem in mid

December and 10 January. Second, Said Foreign National students have been reimbursed monthly from January to July. At no time had their travel been debited to the sponsored research funds. Only the (b)(6), (b)(7)c indirect funds were used.

(2) Based on this evidence, I concluded the allegation is substantiated.

c. **Recommendations.** Take appropriate administrative/disciplinary action to hold B6, B7C accountable.

d. **Disposition.**

4. **Second allegation.** That NPS employee (B6, B7C) (B6, B7C) (b)(6), (b)(7)c (b)(6), (b)(7)c improperly used Invitational Travel Orders for three Foreign National students from the U of WYO. B6, B7C used ITO's for non-NPS students/non-Government employee/non-contractor. Based upon the evidence, the investigation concluded that B6, B7C improperly used government travel funds in violation of the Joint Travel Regulation Appendix E and NPS Policy for ITO. **Substantiated.**

a. **Facts**

(1) NPS ITO Policy states:

A. Individuals traveling under Invitational Travel Orders (ITO) are required to use the Defense Travel System (DTS) to file an authorization and submit a voucher for their trip. ITOs are for authorized travel of individual(s) who are:

1. Non-federal government employees who are invited to NPS. Note that in accordance with Part I.A.2.c. of Appendix E of the JTR/JFTR, an ITO "is not authorized for an individual merely to attend a meeting or conference, even if hosted by a DOD component on a matter related to the component's official business."
2. State and local government employee students in the Center for Homeland Defense and Security who are periodically resident at NPS for short periods of time.
3. Full-time NPS Foreign National students.

(2) JTR Appendix E states:

2. Invitational travel may be authorized by use of an ITA when:
 - a. It is in the DOD Component's interest to invite a college or university official or a representative of industry to observe the work performed by, or the operations of, an activity.

(3) Witness #1 stated that he knew of no other ITO's for Foreign National students from other Universities that were brought to NPS to write their dissertation papers and have direct oversight from their former professor.

(4) Witness #2 stated that the (b)(6), (b)(7)C B6, B7C spends more hours per day with these Foreign National students than he spends completing the work of the (b)(6), (b)(7)C which he has a primary duty to do that first and then is a researcher second.

(5) It was stated by one of the U of WYO Foreign National students that he was invited by B6, B7C to come to NPS to work on his Ph.D. research paper, which covers stochastic analysis (S.A.) processes & fluid dynamics, aircraft design, and oil recovery. The Foreign National student stated his research was the mathematical theory aspects for S.A. and not the application of S.A. He has left his research here at NPS for storage until his return. He is a U of WYO student and not an official representative.

(6) It was stated by another U of WYO Foreign National student that he was invited by B6, B7C to come to NPS to work on his Ph.D. research paper, which covers systematic mathematical theory and is not specific to helicopters or supersonic ballistic projectiles or blast waves. He stated he was invited to return to NPS in January 2010 by B6, B7C He is a U of WYO Foreign National student and not an official representative.

(7) The U of WYO International Student Office stated that the Foreign National students are their graduate assistants employed part time at U of WYO. Their research was funded by the U. S. Army and U. S. Navy Office of Naval Research. They receive partial payment from U of WYO and also receive health insurance coverage. They have no authorization to work at another site and they can only be paid by U of WYO.

(8) Files were reviewed for individuals on ITO in GSEAS. No regulations or instructions were listed on the forms for ITO requests. Utilities were paid in addition to per diem to the ITO Foreign National students.

(9) Witness #10 stated that the Foreign National student's work was tangentially related to his and the Foreign National students work built on B6, B7C research. Witness #10 stated that the ITO Foreign National students were working on theoretical foundations for applications that the U. S. Navy may have interest in (opinion). B6, B7C stated to witness #10 that there was potential for collaboration between witness #10 and the ITO Foreign National students.

(10) Witness #11's opinion is that stochastic process analysis is a very broad part of science and B6, B7C research in this area has no application for NPS. Witness #11 stated that it is not a "given" for U of WYO to transfer research funding to NPS without both research offices communicating and all documents transferred. This process has an impact on students at U of WYO and NPS.

Taking a research project from U of WYO to NPS could be viewed as stealing. There must be alignment between funding, students, protocol, and procedures for it to be feasible

Witness #11 stated that [B6, B7C] conducts 4-6 hours per day of research and does not complete the work of the Dean position.

(11) Witness #13 stated that the ITO student never asked for anything from the Math Dept. Witness #13 stated she never saw the ITO Foreign National students interact with any of the Math faculty.

(12) Witness #14 stated that ITO Foreign National students were scheduled to meet one hour per day with [B6, B7C]. Witness #14 stated the ITO Foreign National student's orders were corrected/amended so that they could receive partial ITO travel payments. Witness #14 delivered documents between the ITO Foreign National students and [B6, B7C] and did printing tasks when requested on the average of 2-3 times per week. Witness #14 stated that [B6, B7C] was continuing his research from U of WYO and bought books for future courses. Witness #14 stated that indirect funding was used for the ITO Foreign National students.

(13) Witness #17 stated that an ITO is for speakers with colloquial presentations, external reviewers (WASC mandated), and collaborative researchers associated with NPS research, but not for Ph.D. students because there is no collaboration and trying to justify it would cause too many conflicts.

b. Analysis/Discussion/Conclusion.

(1) The NPS ITO policy does not allow Foreign National students to come to NPS for "site visits to study with [B6, B7C] or "information meetings to study with [B6, B7C] as was the purpose stated on the Invitational Travel Order. These were Foreign National students from [B6, B7C] previous affiliation with U of WYO.

(2) There was no funding in place from either U of WYO, or the Sponsor for these ITOs

(3) These Foreign National students were not college or university officials or representatives of industry therefore the use of the ITO is a violation of NPS Policy and the Joint Travel Regulation (JTR) Appendix E.

(4) The statement that everyone across NPS does this, is not valid reason to continue in practices that are made known by staff as illegal.

(5) Based on this evidence, I concluded the allegation is substantiated.

c. Recommendation. Take appropriate administrative/disciplinary action to hold B6, B7C accountable.

d. Disposition.

5. Third allegation That NPS employee (B6, B7C) (B6, B7C) Dean of the (b)(6), (b)(7)c, improperly allowed U of WYO Foreign National students access to a storage room that held a Classified documents safe, B6, B7C had no security plan written, implemented, or in force, and that the Foreign National students did not have background checks based on their 6 months or less stay at NPS. This is in violation of NPS Instruction 5510.2E and NPS Instruction 5510.1F. **Substantiated.**

a. Facts

(1) B6, B7C told the Math Dept. (b)(6), (b)(7)c to provide office keys to these Foreign Nationals, which also gave them unescorted access to a storage room that held a Classified documents safe.

(2) Witness #1 was concerned that there was not a security plan for these ITO Foreign National students especially since one of them was from the People's Republic of China (PRC).

(3) In a meeting with B6, B7C witness #1 stated that B6, B7C requested documents that were classified and witness #1 asked what B6, B7C security clearance level was. Witness #1 opinion is that this action was to take advantage of faculty proximity ("a fishing expedition").

b. Analysis/Discussion/Conclusion.

(1) There was a Classified documents safe in a storage room for the department.

(2) Everyone in the Mathematics Department had a key for the storage room including the Foreign National students on ITO's from U of WYO.

(3) That safe was removed to another area with far more security during this investigation.

(4) This issue presents many problems for NPS. There seems to be little concern that these (Foreign Nationals) may pose a threat to national security just because they are from academia. NPS instruction is clear in regards to monitoring the Foreign National visitors by their host.

(5) There is no evidence of the security plan or the Foreign National visitor request signed approval in the GSEAS department files. The only information is the data entry into the security system that the U of WYO Foreign National students are on the base.

(6) When inviting Foreign Nationals there seems to be a lack of internal control when invitation requests are initiated as required by NPS Instruction 5510.2E. There are no NPS or higher-level instructions referenced on the ITO request form.

(7) Spoke with the (b)(6), (b)(7)c Officer and the (b)(6), (b)(7)c Officer (SSO) to determine if they should conduct background checks on Foreign Nationals that are at NPS 6 months or less and they agreed they would look into that issue.

(8) Spoke with the (b)(7)c, who had the Classified documents safe moved to (b)(7)c, (b)(6) office where only he has access.

(9) Based on this evidence, I concluded the allegation is substantiated.

c. Recommendation. Take appropriate administrative/disciplinary action to hold B6, B7C accountable.

d. Disposition.

6. Fourth allegation That NPS employee (B6, B7C (b)(6), (b)(7)c (B6, B7C (b)(6), (b)(7)c improperly provided premium office space to the U of WYO Foreign National students at a detriment to Official NPS employees and NPS registered students. In violation of NPS Instruction, (draft) 11010.1 pages 4-5 table 4-1. **Substantiated.**

a. Facts

(1) The office space provided to the ITO U of WYO Foreign National students was in the Math department.

(2) The (b)(6), (b)(7)c was not contacted in advance that he was to provide an equipped office for these ITO Foreign National students.

(3) Witness #13 stated that B6, B7C (b)(6), (b)(7)c person asked for office space for the ITO Foreign National students in the Math department, and as a courtesy, the witness #13 provided the room and keys.

Witness #13 stated that the computer in the room belongs to NPS and the internet connection is live.

(4) The laptop in the office belongs one of the ITO Foreign National students from U of WYO. The PC belongs to NPS and use was reviewed by ITACS and showed no breach to the NPS network.

(5) The (b)(6), (b)(7)c was not informed and taken by surprise that these ITO Foreign National students would be working on their research papers in his department, let alone coming into their office on weekends.

b. Analysis/Discussion/Conclusion.

(1) The space management for NPS is very controlled and to use this space was an improper act by (b)(6), (b)(7)c as he provided said space to the U of WYO Foreign National students. The space that was provided is considered private/shared and is designated for non-tenure track faculty, distinguished research professors/associate professors, reference librarians, supervisory positions, and technical support staff.

(2) Based on this evidence, I concluded the allegation is substantiated.

c. Recommendation. Take appropriate administrative/disciplinary action to hold (b)(6), (b)(7)c accountable.

d. Disposition.

7. Fifth allegation That NPS employee (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c improperly provided course auditing for the U of WYO Foreign National students who do not appear to be eligible to either attend or audit courses at NPS by directing one of the professors to take his visiting Foreign National students in the course for audit.

a. Facts

(1) Two of the U of WYO Foreign National students attended the ocean wave class from (b)(6), (b)(7)c in Oceanology (Oceanography) department and one control class from (b)(6), (b)(7)c from math department. These Foreign National students are not US citizens and therefore not eligible for the SMART program, or GRA program either.

(2) The (b)(6), (b)(7)c states, "The two Foreign National students from Wyoming sat in my course MA4323. They started in the middle of the quarter, if I remember correctly in the week of Feb 9, 2009." In addition, he stated, "The

Foreign National students were introduced to me by the (b)(6), (b)(7)c in a seminar in February and they were asked to attend my class. The Foreign National students then came to my class until the end of the quarter. But they did not participating the final exam and weekly homework presentation. They just came to my lecture hours (three hours per week)."

(3) Witness #1 stated that the ITO Foreign National students sat in on a class while here and witness #1 is not sure which one.

b. Analysis/Discussion/Conclusion.

(1) These individuals had no relationship to NPS other than guests of B6, B7C

(2) NPS policy states that auditing courses is at the Professor's discretion for eligible persons. Whether or not the auditing of the professors' courses was at their discretion is questionable at best.

(3) Create policy on informal course audit that defines a person's eligibility. Determine whether a Dean or Chair can override the professor's discretion for auditing their courses. Determine what if any level of security clearance required if needed. Determine whether non-student Foreign Nationals should be allowed to audit. Determine whether or not contractors should be allowed to audit.

(4) Based on this evidence, I concluded the allegation is unsubstantiated.

c. Recommendation. Establish internal controls and policies to address the auditing of courses at NPS. Any Foreign National with ill intent could aggregate knowledge of Navy systems by auditing courses at NPS and thus become a threat to the US.

d. Disposition.

8. Documents and Interviews.

(a) Documents reviewed.

- (1) travel authorizations and vouchers
- (2) master time history
- (3) computer access/use records
- (4) research papers
- (5) research publications list
- (6) email
- (7) research proposal
- (8) receipt of sponsors funding memorandum
- (9) execution report for Indirect Cost Account

- (10) purchase request
- (11) Expedia flight reservations
- (12) Budget pages
- (13) Funding documents
- (14) NPS Instructions
- (15) NPS Research Policies
- (16) NPS ITO Policies

(b) Interviews conducted. (All interviews were conducted in person). All personnel work at the Naval Postgraduate School.

(b)(6), (b)(7)c

